

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 514J.117, the Insurance Division hereby amends Chapter 76, “External Review,” Iowa Administrative Code.

This amendment updates the address of the Iowa Insurance Division and the Iowa Code citation referenced in the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 2, 2016, as **ARC 2430C**. Written suggestions were accepted through March 22, 2016. Interested persons could request an oral proceeding on the proposed amendment. No comments and no requests for oral proceeding were received. This amendment is identical to that published under Notice.

The amendment is subject to waiver consistent with the waiver provisions provided at 191—Chapter 4.

This amendment will impose no fiscal impact on the State.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 514J.

This amendment shall become effective July 27, 2016.

The following amendment is adopted.

Amend **191—Chapter 76** as follows:

CHAPTER 76 EXTERNAL REVIEW

191—76.1(514J) Purpose. This chapter is intended to implement ~~2011~~ Iowa Code Supplement chapter 514J and the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148 as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, which amends the Public Health Service Act and adopts, in part, new 42 U.S.C. Section 300gg-19. These rules address issues which are unique to the external review process in this state and provide a uniform process for covered persons of health carriers providing health insurance coverage or the covered persons’ authorized representatives to request and receive an external review of adverse determinations and final adverse determinations as defined in ~~2011~~ Iowa Code Supplement sections 514J.102(1) and 514J.102(18) and as referenced in ~~2011~~ Iowa Code Supplement section 514J.109(1). Health carriers defined in ~~2011~~ Iowa Code Supplement section 514J.102(23), and included in paragraph 76.2(2) “c” are subject to these rules.

191—76.2(514J) Applicable law and definitions.

76.2(1) The rules contained in this chapter shall apply to any health benefit plan as defined in ~~2011~~ Iowa Code Supplement section 514J.102(19) other than those excluded under ~~2011~~ Iowa Code Supplement section 514J.103(2), for any plan that is offered or issued by a health carrier as defined in ~~2011~~ Iowa Code Supplement section 514J.102(23), if the plan was issued in Iowa, and if the external review request is filed with the commissioner on or after July 1, 2011.

76.2(2) For purposes of this chapter, the definitions in ~~2011~~ Iowa Code Supplement chapter 514J shall apply. In addition:

a. For purposes of applying the exemption in ~~2011~~ Iowa Code Supplement section 514J.103(2) “b,” “Medicare supplement policy of insurance” shall mean the same as “Medicare supplement policy” as defined in rule 191—37.3(514D).

b. For purposes of this chapter, the definition of “adverse determination” in ~~2011~~ Iowa Code Supplement section 514J.102 shall include experimental or investigational treatment adverse determinations, as set forth in ~~2011~~ Iowa Code Supplement section 514J.109.

c. No change.

191—76.3(514J) Disclosure requirements. The description of external review procedures required by 2011 Iowa Code Supplement section 514J.116 shall be in the form of Appendix A or substantially similar language approved by the commissioner.

191—76.4(514J) External review request.

76.4(1) Except for requests for expedited review, the covered person or the covered person's authorized representative shall submit a written request for external review (completed Appendix B) to the commissioner by personal delivery, by mail, by fax or by electronic transmission, including a copy of the health carrier's written notice containing the final adverse determination, within the time periods specified in 2011 Iowa Code Supplement section 514J.107(1) or 514J.109(1), as applicable. The request form and notice shall be submitted to the commissioner at Iowa Insurance Division, 330 Maple Street, Two Ruan Center, 601 Locust, Fourth Floor, Des Moines, Iowa 50319 50309; fax (515)281-3059; or e-mail iid.marketregulation@iid.iowa.gov.

76.4(2) and 76.4(3) No change.

191—76.5(514J) Communication between covered person, health carrier, independent review organization and the commissioner.

76.5(1) Notices or other communications required by 2011 Iowa Code Supplement chapter 514J between the commissioner, the health carrier and the independent review organization shall be by e-mail or facsimile, unless otherwise specified, and shall be documented to prove transmission and receipt of the communication.

76.5(2) Notices or other communications required by 2011 Iowa Code Supplement chapter 514J from the commissioner, the health carrier or the independent review organization to the covered person shall be by e-mail, facsimile or overnight mail, and shall be documented to prove transmission and receipt of the communication.

76.5(3) The covered person or covered person's representative may provide notifications and communications to the health carrier, independent review organization and the commissioner as required by 2011 Iowa Code Supplement chapter 514J by e-mail, facsimile or overnight mail, but also may do so by first-class mail or personal delivery.

76.5(4) Any time periods or deadlines specified in 2011 Iowa Code Supplement chapter 514J shall commence upon receipt of the notice or communication and cease upon the transmission of the subsequent notice or communication.

191—76.6(514J) Assignment of independent review organization by the commissioner.

76.6(1) The assignment by the commissioner of an independent review organization pursuant to 2011 Iowa Code Supplement chapter 514J shall be by rotation among approved independent review organizations.

76.6(2) Upon assignment by the commissioner of an independent review organization, in addition to providing notice to the health carrier and the covered person or covered person's representative as required by 2011 Iowa Code Supplement chapter 514J, the commissioner shall provide notice of the assignment to the independent review organization.

76.6(3) No change.

191—76.7(514J) Decision notification. The independent review organization shall immediately provide a copy of a draft of the decision to the commissioner for review. The commissioner shall review the draft of the decision to verify that the independent review organization has included in its draft of the decision the requirements set forth in 2011 Iowa Code Supplement section 514J.107, 514J.108, or 514J.109. The commissioner shall make any suggestions for changes to make the draft of the decision comply with the requirements. The independent review organization shall make such required changes within two business days. Once the commissioner determines that the decision meets the requirements of 2011 Iowa Code Supplement section 514J.107, 514J.108, or 514J.109, as applicable, the independent review organization shall immediately send the decision to the commissioner, the health carrier, and

the covered person or covered person's authorized representative. The decision approved by the commissioner shall be delivered by telephone, fax or electronic transmission to the health carrier, the commissioner and the covered person or covered person's authorized representative, and a hard copy of the decision also shall be delivered by mail to the covered person or covered person's authorized representative.

191—76.8(514J) Health carrier information.

76.8(1) No change.

76.8(2) Each health carrier shall make available to the commissioner upon request within five business days a detailed description of the process the health carrier has in place to ensure compliance with the requirements found in this chapter and in ~~2011 Iowa Code Supplement~~ chapter 514J. The description shall include:

a. and *b.* No change.

76.8(3) Each health carrier shall provide to the commissioner, upon request, information set forth in ~~2011 Iowa Code Supplement~~ section 514J.114(2) "*b.*" in a format substantially similar to Appendix D, or as approved by the commissioner.

191—76.9(514J) Certification of independent review organization.

76.9(1) In addition to the minimum qualifications set forth in ~~2011 Iowa Code Supplement~~ section 514J.112, the following minimum standards are required for certification as an independent review organization:

a. The applicant shall provide a description of the procedures employed to comply with ~~2011 Iowa Code Supplement~~ section 514J.112(1) "*a.*"

b. to *e.* No change.

76.9(2) The independent review organization shall develop written policies and procedures to ensure adherence to the requirements of this chapter and ~~2011 Iowa Code Supplement~~ chapter 514J by any contractor, subcontractor, subvendor, agent or employee affiliated with the certified independent review organization.

76.9(3) In addition to the toll-free telephone service required by ~~2011 Iowa Code Supplement~~ section 514J.112(1) "*b.*" the independent review organization shall establish a facsimile and electronic mail service to receive information relating to external reviews pursuant to this chapter and ~~2011 Iowa Code Supplement~~ chapter 514J.

76.9(4) The independent review organization shall provide the commissioner within ten business days of request such data, information, and reports as the commissioner determines necessary to evaluate the external review process established under ~~2011 Iowa Code Supplement~~ chapter 514J or a report in the format of Appendix C to comply with ~~2011 Iowa Code Supplement~~ section 514J.114(1).

76.9(5) Applications shall be submitted to the Commissioner of Insurance, ~~330 Maple Street,~~ Two Ruan Center, 601 Locust, Fourth Floor, Des Moines, Iowa ~~50319~~ 50309; or as designated by the commissioner. Applications must be submitted in full to be considered. The form for initially approving and for reapproving independent review organizations required by ~~2011 Iowa Code Supplement~~ section 514J.111(4) shall be in the form of Appendix E. If the commissioner designates an entity to review applications, the designee may charge a fee, as permitted by ~~2011 Iowa Code Supplement~~ section 514J.111(5) and as approved by the commissioner. All applicants will be notified of the certification decision.

76.9(6) No change.

191—76.10(514J) No change.

191—76.11(514J) Penalties.

76.11(1) *Independent review organizations.* The commissioner may withdraw the approval of an independent review organization for any of the following reasons:

a. Failure to maintain the minimum standards set forth in ~~2011 Iowa Code Supplement~~ sections 514J.111 and 514J.112 or in subrule 76.9(1).

b. and c. No change.

d. Failure to comply with any other requirements set forth in this chapter or in ~~2011 Iowa Code Supplement~~ chapter 514J.

76.11(2) Health carriers.

a. No change.

b. The commissioner may require a health carrier to provide additional time for a covered person to request an external review or submit documentation if the health carrier failed to comply with any part of ~~2011 Iowa Code Supplement~~ chapter 514J or of this chapter.

c. No change.

These rules are intended to implement ~~2011 Iowa Code Supplement~~ chapter 514J.

Appendix A

NOTICE OF APPEAL RIGHTS

You have a right to appeal any decision we make that denies payment on your claim or your request for coverage of a health care service or treatment.

You may request additional explanation when your claim or request for coverage of a health care service or treatment is denied or the health care service or treatment you received was not fully covered. Contact us when you:

- Do not understand the reason for denial;
- Do not understand why the health care service or treatment was not fully covered;
- Do not understand why a request for coverage of a health care service or treatment was denied;
- Cannot find the applicable provision in your Benefit Plan Document;
- Want a copy (free of charge) of the guidelines, criteria or clinical rationale that we used to make our decision; or
- Disagree with the denial or the amount not covered and you want to appeal.

If your claim was denied due to missing or incomplete information, you or your health care provider may resubmit the claim to us with the necessary information to complete the claim.

Internal Appeal: All appeals to us for claim denials (or any decision that does not cover expenses you believe should have been covered) must be sent to [insert address of the health carrier contact person where appeals should be sent] within **180 days** of the date you receive our denial. We will provide a full and fair review of your claim by individuals associated with us, but who were not involved in making the initial denial of your claim. You may provide us with additional information that relates to your claim, and you may request copies of information that we have that pertains to your claim. We will notify you of our decision in writing within **30 days** of receiving your appeal. If you do not receive our decision within **30 days** of receiving your appeal, you may be entitled to file a request for external review.

External Review: We have denied your request for the provision of or payment for a health care service or course of treatment. If our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment

you requested, **you may have a right to have our decision reviewed** by health care professionals who have no association with us. Requests for external review may be submitted to the Commissioner of Insurance.

You may obtain an external review if:

- Our decision involved the admission, availability of care, continued stay, or other health care service that is a covered benefit; and
- We denied, reduced or terminated the requested service or treatment or payment for the service or treatment because we determined it did not meet our requirements for medical necessity, health care setting, level of care or effectiveness of the health care service or treatment you requested.
- You have a medical condition that would seriously jeopardize your life or health or would jeopardize your ability to regain maximum function. In this situation, you may file a request for an **expedited external review** of our denial.
- The final adverse determination concerns an admission, availability of care, continued stay, or a health care service for which you received emergency services, but you have not been discharged from a facility. In this situation, you or your authorized representative may request an **expedited external review**.
- Our denial to provide or pay for health care service or course of treatment is based on a determination that the service or treatment is experimental or investigational. In addition, if your treating health care professional certifies in writing that the recommended or requested health care service or treatment that is the subject of the recommendation or request would be significantly less effective if not promptly initiated, then you or your authorized representative may request an **expedited external review**.

You can obtain a copy of the External Review Request Form from: the Iowa Insurance Division, ~~330 Maple, Two Ruan Center, 601 Locust, Fourth Floor, Des Moines, Iowa 50319~~ 50309; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; Web site ~~www.iid.state-ia.us~~ www.iid.iowa.gov.

Within **four months** after receipt of our notice containing the final adverse determination and this Notice of Appeal Rights, you should submit a request for external review to the Iowa Insurance Division, ~~330 Maple, Two Ruan Center, 601 Locust, Fourth Floor, Des Moines, Iowa 50319~~ 50309; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; e-mail iid.marketregulation@iid.iowa.gov.

For standard external review, a decision will be made within **45 days** after the independent review organization receives your request.

For details, please review your Benefit Plan Document, contact us, or contact the Iowa Insurance Division.

Appendix B

EXTERNAL REVIEW REQUEST FORM

SECTION 1. No change.

SECTION 2. WHAT TO SEND AND WHERE TO SEND IT

YOU MUST SUBMIT ITEMS 1 AND 2 BELOW:

1. and 2. No change.

WHERE TO SEND IT:

If you are requesting a standard external review, send all paperwork to the Iowa Insurance Division, ~~330 Maple, Two Ruan Center~~, 601 Locust, Fourth Floor, Des Moines, Iowa ~~50319~~ 50309; facsimile 515-281-3059; e-mail iid.marketregulation@iid.iowa.gov. If you have questions, telephone 877-955-1212 or 515-281-6348.

If you are requesting an expedited external review, call the Iowa Insurance Division (telephone 877-955-1212 or 515-281-6348) before sending your paperwork, and you will receive instructions on the quickest way to submit the application and supporting information.

SECTIONS 3. to 7. No change.

Appendix C to Appendix E No change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/16.